

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

KARA MELONE & PAUL MELONE,

Plaintiffs,

v.

CRYOPORT INC., *et al.*,

Defendants.

Civil Action No. 23-3243 (MAS) (JBD)

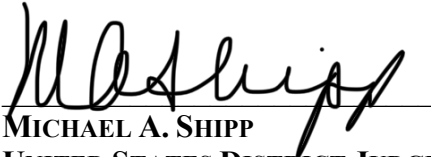
ORDER

This matter comes before the Court upon the filing of two separate motions to dismiss: (1) Defendant Cryoport Inc. d/b/a CryoStork's ("CryoStork") motion to dismiss (ECF No. 34); and (2) Defendants Shore Institute for Reproductive Medicine, P.C.'s ("Morgan Fertility"), Kiernan Trebach LLP, Allen Morgan, M.D, Meir Locha, M.D., Kelly Hynes, LPN, and Kerri King-Hurley's (collectively the "Morgan Defendants," and collectively with Cryoport, "Defendants") motion to dismiss (ECF No. 35). Plaintiffs Kara Melone and Paul Melone (collectively "Plaintiffs") opposed both motions (ECF Nos. 37, 38), and Defendants separately replied (ECF Nos. 40, 41). After careful consideration of the parties' submissions, and for the reasons detailed in the Court's Memorandum Opinion,

IT IS on this 23rd day of April 2024, **ORDERED** as follows:

1. CryoStork's motion to dismiss (ECF No. 34) is **GRANTED**.
2. All claims against CryoStork are **DISMISSED WITHOUT PREJUDICE**.
3. The Morgan Defendants' motion to dismiss (ECF No. 35) is **GRANTED IN PART AND DENIED IN PART**. Specifically:
 - a. The Morgan Defendants' motion to dismiss Plaintiffs' gross negligence claim (Count Two) is **DENIED**.

- b. The Morgan Defendants' motion to dismiss Plaintiffs' willful and wanton misconduct (Count Three), reckless misconduct (Count Four), negligent infliction of emotional distress (Count Five), and common-law fraud and negligent misrepresentation (Count Twelve) claims is **GRANTED**.
- c. The Morgan Defendants' motion to dismiss Plaintiffs' breach of contract claim against Morgan Fertility (Count Fourteen) is **DENIED** as against Morgan Fertility. To the extent Plaintiffs sought to bring their breach of contract claim against any other Morgan Defendant, the Morgan Defendants' motion is **GRANTED** as to the remaining Morgan Defendants.
- 4. The Morgan Defendants' motion to strike certain allegations in Plaintiffs' Amended Complaint is **DENIED**.
- 5. Plaintiffs are granted 30 days from the filing of this Order on the docket to file a second amended complaint.


MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE